

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

RONALD SATISH EMRIT

PLAINTIFF

v.

CIVIL ACTION NO. 1:15cv318-LG-MTP

DAVIS & CRUMP, P.C., ET AL.

DEFENDANTS

REPORT AND RECOMMENDATION

THIS MATTER is before the Court on Plaintiff's Motion for Leave to Proceed *in forma pauperis* [2] and on Plaintiff's failure to comply with the Court's Orders [5] [6]. For the reasons set forth below, the undersigned recommends that Plaintiff's Motion [2] be denied and that Plaintiff be directed to pay the filing fee.

On November 12, 2015, the Court found that Plaintiff's original IFP application required clarification as the information it contained was incomplete. *See* Order [5]. For instance, the Plaintiff stated that he regularly receives financial assistance from several individuals, but did not state the amount he receives. He also failed to set forth his monthly expenses. The Court directed the Plaintiff to complete a long form application to proceed *in forma pauperis* on or before November 26, 2015. The Court warned Plaintiff that his failure to provide this information could result in the denial of his IFP application. *Id.*

The November 16, 2015, deadline expired without any response from the Plaintiff. On December 3, 2015, the Court entered an Order to Show Cause [6], directing the Plaintiff to file a written statement setting forth why his motion for leave to proceed *in forma pauperis* should not be denied for failure to comply with the Court's Order [5], or, alternatively, to file a completed long form application in accordance with the Court's Order [5]. The Court again warned the Plaintiff his failure to provide this information could result in the denial of his IFP application. The order set

forth a deadline of December 14, 2015. *See* Order [6]. This deadline has now also expired without a response from the Plaintiff.¹

Without specific information regarding his income and expenses, Plaintiff's financial status cannot be fairly evaluated and considered. Thus, Plaintiff has failed to comply with this Court's Orders [5] [6] and has failed to meet his burden of establishing his entitlement to proceed *in forma pauperis*. Accordingly, Plaintiff's Motion [2] should be denied.

RECOMMENDATION

Based on the foregoing, the undersigned recommends that:

1. Plaintiff's Motion for Leave to Proceed *in forma pauperis* [2] be DENIED,
2. Plaintiff be given thirty (30) days to pay all of the costs associated with the filing of this lawsuit, and
3. Should Plaintiff fail to timely pay all of the costs associated with the filing of this lawsuit, this matter be dismissed without prejudice and without further notice.

NOTICE OF RIGHT TO OBJECT

In accordance with the rules and 28 U.S.C. § 636(b)(1), any party within fourteen days after being served a copy of this recommendation, may serve and file written objections to the recommendations, with a copy to the judge, the magistrate judge and the opposing party. The District Judge at the time may accept, reject or modify in whole or part, the recommendations of the Magistrate Judge, or may receive further evidence or recommit the matter to this Court with

¹The Plaintiff filed an Notice of Appeal [7] in this matter on December 7, 2015. However, Plaintiff does not specify which order of this Court he wishes to appeal. Furthermore, the undersigned notes that there have been no dispositive rulings in this matter and that no final judgment has been entered. *See* 28 U.S.C. § 1291-1292; Fed. R. Civ. P. 54(d). The notice of appeal may have been filed in the wrong case, as it states that it was an error for the trial judge to rule that this action is "frivolous, malicious, or non-meritorious." No such ruling has been made in this case. Additionally, the notice references the United States Court of Appeals for the Eleventh Circuit in the final paragraph.

instructions. The parties are hereby notified that failure to file written objections to the proposed findings, conclusions, and recommendations contained within this report and recommendation within fourteen days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the proposed factual findings and legal conclusions accepted by the district court to which the party has not objected. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

THIS the 21st day of December, 2015.

s/ Michael T. Parker

United States Magistrate Judge